

REMARKS

Applicants thank the Examiner for his patience. Applicants have consulted the MPEP and the Rules and have found that 37 C.F.R. § 1.178(a) states:

(a) The application for a reissue should be accompanied by either an offer to surrender the original patent, or the original patent itself, or if the original is lost or inaccessible, by a statement to that effect. The application may be accepted for examination in the absence of the original patent or the statement, but one or the other must be supplied before the application is allowed. If a reissue application is refused, the original patent, if surrendered, will be returned to applicant upon request.

Thus, Applicants hereby offer to surrender the original patent. This offer should enable the Examiner to allow the instant application.

Applicants submit herewith a substitute declaration specifically identifying at least one error to be corrected and a substitute version of the preliminary amendment submitted with the Reissue application. In the substitute declaration, Applicants specifically point to the limitations of attaching, fashioning a deflecting mirror, fashioning a torsional mirror, and mounting a semiconductor light emitter of claim 11 as being far too narrow. Similarly, Applicants point to limitations of claim 1 that were far too narrow in scope. The new claims address the invention with a more proper breadth. Applicants believe that this identification of specific errors in the base claims of the patents satisfy the Examiner's objections to the declaration filed with the Reissue application. The substitute version of the preliminary amendment has all the new claims underlined. If any of this is unsatisfactory, Applicants pray that the Examiner will call their representative, David Henn, to work out the manner in which the situation can be cured.

Applicants thank the Examiner for his assistance and have amended claims 21 and 30 to correct the errors the Examiner identified in his Objections. In addition, Applicants have corrected the dependency of claim 23. Applicants believe that all objections have now been overcome, and that claims 21-26, 28, 29, and 35, and 36 should be allowable over the prior art of record.

Claims 27 and 30-34 were rejected under 35 U.S.C. § 102(e) as being anticipated by Motamedi *et al.*, U.S. Patent No. 5,903,380. The Examiner asserts that Motamedi *et al.* disclose a hinge. However, the Examiner has not pointed to any hinge in Motamedi *et al.* Rather, the Examiner describes the bending of beam 10 in response to actuator 18 by stating that “mirror 16 turns on polysilicon component/actuator 21 as the latter is heated.” Applicants respectfully submit that the Examiner’s description of the operation is a mischaracterization of what occurs in Motamedi *et al.* Additionally, it is not clear from this statement exactly what the Examiner intends to interpret as a hinge. However, Applicants respectfully submit that interpreting the bending of the cantilever beam 10 about the actuator/base 18 as yielding a hinged part is repugnant to the very definition of “hinge” the Examiner quotes. The beam is not a “swinging part,” but is firmly held over the entire surface that contacts the base/actuator 18 and bends with the base/actuator 18. The base/actuator 18 is not “a jointed or flexible device on which [the beam 10] ... or other swinging part turns,” but is a multi-layer block of material supporting and inducing bending of the beam 10. Applicants thus encourage the Examiner to reconsider his interpretation of the word “hinge” and the definition he quotes and shift to a more conventional interpretation of the term and to allow claims 27 and 30-34.

* * * * *

In view of the foregoing amendments and remarks the subject application is believed to be in condition for allowance. Therefore, further consideration and allowance of the subject application is requested. If the Examiner considers personal contact advantageous to the disposition of this case, please call Applicants' Attorney, David E. Henn at (585) 423-4299, Xerox Corporation, Rochester, New York 14644, or fax him at (585) 423-5240.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'David E. Henn', is written over a horizontal line.

David E. Henn
Attorney for Applicants
Registration No. 37,546

DEH/gmm

VERSION WITH MARKINGS TO SHOW CHANGES MADE

21. (TWICE AMENDED) A MEMS formation method including:
providing a SOI wafer including a single crystal silicon layer attached to an
insulator layer;
forming at least one first MEMS component by patterning the single crystal silicon
layer;
depositing at least one layer of polysilicon on the patterned single crystal
silicon~~forming at least one second MEMS component by patterning the~~
~~polysilicon~~; and
~~depositing at least one layer of polysilicon on the patterned single crystal silicon~~
forming at least one second MEMS component by patterning the
polysilicon.

23. (AMENDED) The method of claim ~~22~~21 wherein the at least one second
MEMS component is a hinge.

30. (TWICE AMENDED) A MEMS device comprising:
at least one single crystal silicon component bonded to an insulator that rests on a
handle wafer; and
a polysilicon hinge derived from a layer of polysilicon applied over the at least one
single crystalline component; ~~and~~
~~at least one polysilicon component derived from a layer of polysilicon applied over~~
~~the at least one single crystalline silicon component.~~